

Region 6/OECA

FY 2002

Memorandum of Agreement

**End-of-Year
Narrative Report**

November 15, 2002

NATIONAL PRIORITIES

Concentrated Animal Feeding Operations (CAFOs)

In FY 02 one of Region 6's priorities was to identify through increased inspection activities, those unpermitted facilities with a potential to discharge and, therefore, need to apply for a CAFO permit. EPA's increased compliance monitoring and enforcement actions have persuaded many potential Clean Water Act violators to take notice that EPA is serious about enforcing CAFO regulations. Region 6 has recently imposed penalties to several facilities for discharging to waters of the U.S. without a permit or violating permit conditions.

Region 6 has worked closely with the State of Texas this fiscal year to prioritize and initiate targeted enforcement and compliance activities to minimize manure pollutant discharges into the Bosque River. The upper north Bosque River is listed on the State's 303(d) list as impaired due to AFOs. The Bosque River impacts the quality of water in Lake Waco, which is a source of drinking water for the city of Waco. EPA and the State of Texas have worked closely to address public concerns and to reduce manure pollutant discharges in the Bosque River. Texas has initiated a real-time continuous water monitoring system by installing two monitoring devices on the North Bosque River. Water quality data (dissolved oxygen, phosphorus, temperature, turbidity, Chlorophyll A, salt, ammonia and nitrate) are collected every 15 minutes and transmitted to the agency's website. In addition to continuous monitoring activities, Texas has initiated a program to respond to all citizen complaints within 2 hours, 24 hours a day, 7 days a week. Region 6 has provided funding to establish centralized composting facilities which have helped to facilitate removal of manure from the upper North Bosque River watershed. It is estimated that this EPA-funded project has facilitated the removal of more than a half-million tons of dairy manure out of the Bosque River watershed since October 2000. The composted manure is land applied in other areas of the State where it poses little threat to water quality.

The emphasis in CAFO enforcement has continued to focus on large commercial producers. Region 6 conducted ground water sampling and other investigations at five swine facilities in Oklahoma. These swine farms were included in the RCRA 7003 order issued in June 2001, which was the first such order to address CAFOs in the country. The purpose of this investigation was to determine whether land application of swine effluent is contaminating area drinking water aquifers. At the same time, the swine operation also sampled ground water around lagoons at three of the farms. Results of these investigations are now under review.

Storm Water

In FY2002, Region 6 issued 128 Show Cause and 30-day enforcement administrative orders. Many of these actions were the result of inspections by EPA and state storm water inspectors in response to citizen complaints. These actions culminated in the issuance of 50 Administrative Penalty Orders with monetary fines. The Region received approximately 2000 calls, both complaints and inquiries, regarding the storm water permit during the year.

The Region continues to stress compliance assistance and conducted 8 outreach sessions this year to home builders groups, the Associated General Contractors (AGC), US Bureau of Prisons and private companies. During these outreach seminars, information regarding the

Storm Water general permit and the requirements of the permit were disseminated resulting in an improved compliance rate. In addition, Region 6 NPDES states have been very active in conducting workshops for the construction industry to educate the regulated community in all areas of the permit.

Quarterly compliance meetings were held with the Wal-Mart Corporation. These meetings were a result of the August 2000 Consent Decree lodged and filed with the US Court regarding Wal-Mart's non-compliance at 17 construction sites during 1999 and 2000.

Sanitary Sewer Overflows (SSOs)

Region 6 has on-going enforcement actions against a number of municipalities for corrective action due to sanitary sewer overflows (SSOs). In the state of Texas, there are about fifteen POTWs with Administrative Orders issued, by Region 6, for correction of SSOs. Both the City of Austin, TX, and the City of Arlington, TX, are making significant capital investments to correct the SSO problem as well as upgrade their sanitary sewer systems. Harris County MUD 50, in Texas, has undertaken the SSO correction program under a DOJ Consent Decree.

Two Arkansas municipalities have ongoing EPA Region 6 enforcement actions to correct the SSO problem. In the State of Louisiana, the City of New Orleans and the City of Baton Rouge, have undertaken the SSO correction program under court ordered DOJ Consent Decrees. The consent decrees for these cities require the expenditure of over \$1 billion in improvements over the next 8-13 years to protect water quality and public health. The Baton Rouge consent decree became effective on March 16, 2002. Currently, in Louisiana, EPA and the DOJ are negotiating the requirements of SSOs with the Cities of Monroe and New Iberia to be enforced under court ordered Consent Decrees.

Region 6 conducted a few outreach efforts to educate the States and the regulated communities on the SSO issue. In February, the SSO issue was adequately addressed in a EPA sponsored regional workshop in Oklahoma City. In March, Region 6 presented issue updates on SSOs to a group of regulated communities in Fort Worth. In May, Region 6 participated in a workshop sponsored by the regional chapter of the Water Environment Federation in an operators' training session at the University of Texas at Arlington.

Safe Drinking Water -Microbial Rules

Microbial Rule is a national priority because: (1) it is the most frequently violated drinking water standard; and (2) it poses the largest direct health threat to human health from waterborne disease. There were several Public Water Systems that were in significant non-compliance (SNC) category with the Total Coliform Rule, as well as other Drinking Water rules, alike. The PWS Enforcement Team aggressively monitored and tracked the respective SNCs through diligent negotiations and discussions with the States. In addition, Region 6 took all enforcement actions by issuing the administrative orders against the water systems in New Mexico for the Total Coliform Rule and the chemical violations due to the lack of their enforcement ability. Also all significant non-compliance violations in New Mexico were addressed by EPA Region 6.

Permit Evaders

Facilities which store, dispose, and treat hazardous waste have been required to obtain federal permits (Resource Conservation Recovery Act (RCRA) Hazardous Waste permits) since the mid-1970's. A portion of this universe of facilities are operating without permits and therefore without the safeguards provided by the permits to ensure hazardous waste is controlled from the time it is generated until its ultimate disposal - in effect, from cradle to grave. Concerned about the potential risk to human health and the environment caused by the lack of these safeguards, EPA began the permit evader initiative. Between October 2001 and September 2002, the hazardous waste enforcement program for Region 6 invested notable resources to support and implement this critical initiative. Numerous compliance evaluation inspections were conducted at facilities in the Region suspected of being hazardous waste permit evaders. As a result of these inspections, enforcement actions have already been taken against several hazardous waste handlers (e.g., Union Carbide Corporation, Ford Motor Company) and more are anticipated to be taken against facilities from the chemical, petroleum, and metal services industry sectors. One of these actions involved the disposal of the equivalent of over 6,000 drums of waste. The Region will continue to implement the important permit evader initiative, thereby helping to ensure the safeguards of hazardous waste permits are realized and the long term protection of human health and the environment.

Petroleum Refinery Initiative and/New Source Review/Prevention of Significant Deterioration

Region 6 continues to actively participate in the National Refinery Initiative. The initiative addresses four marquee issues that have historically been found to be areas of non-compliance with the Clean Air Act. The issues are Acid Gas Flaring, Sulfur Recovery Plants, Leak Detection and Repair/benzene in wastewater, and New Source Review/Prevention of Significant Deterioration. These areas also have shown the greatest opportunity for reductions in emissions to the air through enhanced injunctive relief and supplemental environmental projects. Several companies have voluntarily entered into global consent decrees with the United States to address these issues and discussions are on-going with others. In FY 2002, global consent decrees were signed with Conoco and Navajo addressing their refineries in Ponca City, OK; Westlake, LA, and Artesia, NM.

In FY 2002, the Region referred marquee issue violations to the Department of Justice for the following refineries: Chevron - El Paso, TX, Western Refining - El Paso, TX, Sunoco - Tulsa, OK; Sinclair-Tulsa, OK, ExxonMobil-Beaumont, TX, and ExxonMobil-Chalmette, LA. Regional Notices of Violation (NOV) were issued against ExxonMobil for the refineries in Beaumont and Chalmette. The Region also supported EPA HQ in developing the National NOV issued against ExxonMobil. In addition, a Regional Finding Of Violation was issued against Sunoco during FY 2002.

REGIONAL PRIORITIES

Federal Facilities

The Region 6 Federal Facilities Program compliance assistance efforts included conducting Environmental Management Reviews (EMRs) at three Federal facilities: Tinker Air Force Base, in Oklahoma, the Texas Army National Guard, in Texas, and the Carson National Forest in New Mexico. The Carson National Forest volunteered to do an EMR while undergoing enforcement and environmental training activities with EPA. EPA compliance assistance efforts also included a visit to the Bureau of Prisons Regional Office in Dallas, and provided them with storm water and EMR information. Since that visit, the Bureau of Prisons has volunteered for FY2003 EMRs.

Region 6 placed special emphasis on Pollution Prevention (P2) activities which included working with DOD on EPA participation at the 7th Annual Joint Services (Department of Defense) Pollution Prevention Conference. This is the largest pollution prevention worldwide event. In addition, EPA participated in several Texas Environmental Partnership meetings in which a new charter was approved and signed in August 2002. Region 6 also help to organize and coordinate a multi-regional Federal Facilities Environmental Conference (Regions 6, 8, 9 and 10), in Reno, NV.

Region 6 had several in-house Federal Facility visits: Mr. John P. Woodley, the newly appointed Deputy Undersecretary of Defense for Environmental Security, Colonel Jyuji D. Hewitt, Commander, McAlester AAP, and Mr. Stanley Rasmussen, DOD attorney. Mr. Andrew Cherry, EPA Federal Facilities Enforcement Office, conducted his annual regional oversight visit to Region 6 and traveled with us staff to Ft. Hood and participated in the DOD/Texas Pollution Prevention meeting.

Region 6 Federal facilities compliance status includes five facilities that are in significant noncompliance: Los Alamos National Laboratory New Mexico, FAA Aeronautical Center Oklahoma City, OK, Tinker AFB Oklahoma City, OK, Dyess AFB Abilene, TX, and Reese AFB Lubbock, TX. Dyess AFB and Reese AFB are undergoing remedial action but still need to complete RCRA groundwater monitoring requirements.

Public Water Supply

Consumer Confidence Report (CCR) Rule: The Region 6 Public Water Supply (PWS) Enforcement Team continued to implement the formal enforcement actions for the Consumer Confidence Report (CCR) Rule in Louisiana, New Mexico, and Texas. Several of the Region 6 States that had primacy for the CCR rule initiated a CCR enforcement strategy. Meanwhile, The PWS Enforcement Team worked closely with the Region 6 States to bring several of the non-compliant water systems back into compliance. The Region 6 PWS Enforcement Team issued 130 Notice of Violations (NOVs), 31 Administrative Orders (AOs) and 25 Administrative Penalty Orders (APOs) against those respective violators to address the violations.

Safe Drinking Water Act - Total Coliform Rule: On April 30 1998, EPA Region 6 issued an

Administrative Order to Springfield Terrace Enterprise Water System in Louisiana, for violation of Total Coliform Rule (TCR), along with Louisiana State Sanitary Codes. After many years of unsuccessful attempts to bring this water system under compliance, the Louisiana Department of Health and Hospitals (LDHH) finally referred the case to EPA Region 6. Through the continued persuasions of EPA, a grant in the amount of \$750,000 has recently been awarded to this water system to install a new well, storage tank, and distribution system. This grant will assist the water system to meet the requirements of the EPA Administrative Order and come under compliance.

Compliance Assistance

Border Compliance Assistance Center: It is of interest to both the EPA and Mexico's SEMARNAT to ensure that foreign transporters and truckers operating in both countries are aware of environmental laws and regulations governing the labeling, packaging, transport, storage, and disposal of hazardous waste. To address this need Region 6 is helping to create an Internet web site for U.S. entities and foreign transporters involved with importing and transporting hazardous waste into the U.S. from Mexico. The Border Compliance Assistance Center is designed for small businesses to easily find on-line information in order to increase their understanding and compliance with environmental regulations. To reach a diverse audience, information will be provided in both English and Spanish. Region 6 has partnered with OECA's Office of Compliance, and is one of the first to use the national Compliance Assistance Center Platform maintained through a cooperative agreement with the National Center for Manufacturing Sciences. Other Border Center partners include OECA's Office of Federal Activities, OIA, EPA Region 9, U.S. Customs Service, U.S. Department of Transportation, Texas, Arizona, New Mexico, and California State offices, as well as Mexico's Procuraduría Federal de Protección al Ambiente. The Border Center is expected to become functional in 2003. Discussions are already underway on expanding the scope of the Border Center to address other regulatory areas (e.g., pesticides, ozone depleting substances) as well as including imports crossing the U.S./Canadian border. The draft working website for the Border Compliance Assistance Center can be viewed @ <http://www.envcap.org/border/>.

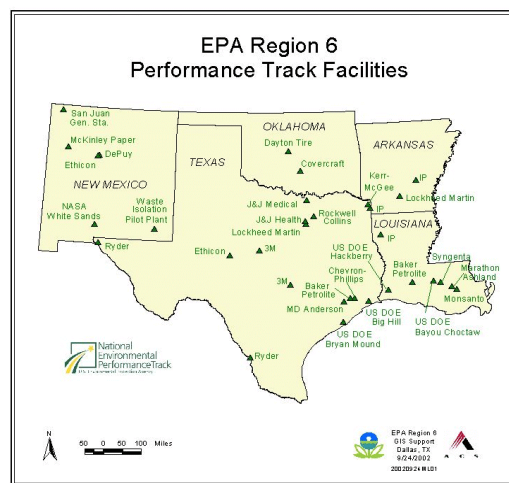
Compliance Assistance Forum: Region 6 will host the FY 2003 National Compliance Assistance Forum in San Antonio, Texas. The Region has been very busy in FY 2002 preparing for the Forum. Region 6 promoted and implemented the first ever, co-sponsorship of the Forum, with a State agency (Texas), to advance the compliance assistance program at both the federal and state levels. Other alliances are being developed with tribal and local governments, federal agencies, trade associations, environmental educators, environmental justice organizations, and non-profits to target their participation and interest as plans for the 3rd national Compliance Assistance Providers Forum continue.

Innovation/Global Change

Performance Track/Clean Texas Leaders MOA: On February 20, 2002, EPA and the State of Texas signed a Memorandum of Agreement (MOA) to align the National Environmental Performance Track and Clean Texas programs. The MOA was signed at the Clean Texas Partnership conference in San Antonio, Texas, by Regional Administrator, Gregg Cooke; AA for Office of Policy, Economics, and Innovation, Thomas Gibson; and Texas Commission on Environmental Quality (TCEQ) Executive Director, Jeffery Saitas. This was the first agreement of its kind between the Agency and a State, nationally, and has served as a model for other State MOA's. EPA and TCEQ committed to creating the best value for our customers; reducing the resource requirements of both the EPA and TCEQ staff and the administrative burden of member organizations; creating the greatest amount of incentives, flexibility, and recognition for program members; and reinforcing and encouraging continual improvement in environmental performance. While encouraging each program to maintain its own identity, EPA and TCEQ pledge to coordinate the application process, make the system transparent to participants, and coordinate the delivery of incentives.

Performance Track membership update: Currently there are 30 facilities participating in the National Environmental Performance Track program in Region 6. Region 6 represents 10 percent of the national membership (~300 facilities). As a result of recruitment efforts during the last year, eleven new facilities were selected for participation in the program. This represents a 60 percent growth of membership in FY2002.

Region 6 conducted National Environmental Performance Track Site Visits at five facilities, during FY2002: Lockheed Martin Missiles and Fire Control (Dallas, TX), Marathon Ashland Petroleum LLC Louisiana Refining Division (Garyville, LA), McKinley Paper Company (Prewitt, NM), Monsanto Company (Luling, LA), and Public Service Company of New Mexico San Juan Generating Station (Waterflow, NM).



National GIS Leadership: Region 6 has chaired the National GIS Work Group for the last two years. The Work Group provides a forum for discussing GIS issues and coordinating GIS activities across EPA offices and Regions. During our tenure, we worked with OEI on Baseline Report (current status) and goals for Blueprint (future strategy). Geospatial is a key part of Agency Enterprise Architecture.

Problem Oil Pits

Arkansas Problem Oil Pits (aka Southern Arkansas Environmental Improvement Project):

Through coordination with the U.S. Fish and Wildlife Service, Arkansas Oil and Gas Commission, and Arkansas Department of Environmental Quality, EPA Region 6 staff achieved voluntary clean-up of an oil field waste site in Southern Arkansas. The site posed an imminent and substantial endangerment to human health and the environment due to the presence of oil in an open pit. Wildlife mortality was documented numerous times at the site. Shortly after EPA voiced concerns regarding the conditions at the site, the owner/operator voluntarily closed the pit, thus removing the substantial environmental threat at the site. Approximately 38,000 gallons of liquid (oil and water) and 856 cubic yards of oil-contaminated soil was removed and/or remediated at the site.



Photo taken October 16, 2001



O Photo taken August 13, 2002

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Gas Exploration and Production Brine and Storm Water Enforcement Initiative

Brine Activities: The discharge of brine from oil field facilities is a violation of Section 301 of the Clean Water Act (CWA). This program targets on-shore oil and gas operators illegally discharging brine (saltwater), generated during exploration and production, to waters of the United States. Brine contaminated waterways have a devastating affect on aquatic ecosystems, as well as wildlife and livestock dependent on fresh water creeks and streams. Over the past year, EPA field inspectors have responded to citizen complaints, state/federal agency referrals, and environmental indicators to identify the location of the discharges and the waters of the U.S. impacted.

During FY2002, the Water Enforcement Branch participated in three workshops to educate operators on Section 301 and brine discharge; issued 20 administrative compliance orders; 6 Class I and Class II penalty actions; referred 5 operators to the SPCC program for flagrant SPCC violations; worked with numerous operators on lease improvements during inspections and/or the AO or APO process; and referred a repeat and flagrant brine discharge violator to Department of Justice (DOJ). Plans for the future include working with the states and industry organizations to educate operators on prudent operating practices, continuing inspections to identify violators, and proceeding with enforcement actions that combine environmental remediation and restoration with penalties to serve as a deterrent.

Storm Water Activities: The storm water program targets on-shore oil and gas operators who have constructed well pad sites and infrastructures that exceed 5 acres without permit coverage under the Phase I NPDES Construction Permit, which is a violation of Section 402 of the CWA. Uncontrolled construction can have a major impact on the quantity of water runoff and the rates of erosion and sediment transport that occur in the environment.

During FY2002, the Region 6 participated in numerous meetings with oil and gas representatives to discuss the potential impacts of permit coverage; worked closely with the Water Permits Division and EPA Head Quarters to develop permit language, a conditional waiver and a record for the Phase II NPDES permit; developed a multi-year integrated compliance assistance strategy to educate operators on the Phase II requirements; responded to citizen complaints concerning water quality impacts due to oil and gas construction; and referred an operator to DOJ for multiple construction permit violations.

Texas U.S./Mexico Border

U.S./Mexico Border Warehouse Initiative: The EPA and the Texas Commission on Environmental Quality (TCEQ) Joint Border Warehouse Initiative was developed in order to conduct warehouse inspections along the U.S./Mexico Border under the authority of the Resource Conservation Recovery Act (RCRA). The Initiative began its efforts in the Laredo/Del Rio, Texas area because citizens have been concerned that improper storage of hazardous materials could result in the contamination of the Rio Grande river, the city's principal source of drinking water, or the exposure of the public to danger. EPA and TCEQ were concerned that the increased amount of international trade between the two countries, along with minimal regulatory presence in the area, created the potential for illegal hazardous waste management practices. Fiscal year 2002 efforts included joint inspections in the Del Rio, Texas area, enforcement actions for violations observed during prior joint warehouse inspections, and compliance assistance efforts for the warehouse industry.

Laredo is one of the busiest ports in the country with 10,000 trucks crossing its bridges each day. Ten percent of the material transported is hazardous. Much of this material is stored in Laredo at any of its 2000 warehouses.



In February of 2002, five inspectors representing the EPA and TCEQ conducted inspections of approximately 47 warehouses that were not regulated (not registered to handle hazardous waste) in order to determine the extent of the mis-management of hazardous waste (violations of RCRA requirements). The inspections determined that five facilities (11 percent) were found to be potentially non-compliant. The investigations identified that the majority of the violations were due to the warehouse industry's lack of knowledge regarding hazardous waste and RCRA.

A total of three Complaints were filed by EPA during fiscal year 2002 alleging violations of RCRA observed during prior joint inspections. The Complaints issued a total of \$ 72,463, and

are projected to be resolved by December of 2003. As a result of the enforcement actions, approximately 100,000 lbs. of potential hazardous waste were removed from the Facilities.

During fiscal year 2002, EPA and TCEQ provided compliance assistance efforts in order to assist the warehouse industry and help them return to compliance. During the month of October 2001, the TCEQ, with the help of EPA and other State and local agencies, developed the International Border Workshop for Hazardous Materials. Topics included the proper storage and transport of hazardous substances. EPA concentrated on the continued effort of bringing awareness to the warehouse industry regarding the proper management of hazardous waste, abandoned hazardous materials/waste, sham-recycling activities, as well as self-disclosure procedures. In total, eight seminars were made available along the U.S./Mexico Border. The compliance assistance efforts resulted in over 20,000 gallons and 2,000 lbs. of potential hazardous waste removed from the warehouses.

CORE PRIORITIES

and

Special Projects/Initiatives

Multi-Media Enforcement Team Pilot Program

Region 6 is piloting an innovative investigative/negotiation process which incorporates traditional investigative techniques and expands the role of and emphasis on Environmental Management Reviews (EMRs) to work with regulated facilities to identify opportunities for improving facility operation and minimizing the Environmental footprint facilities have on their communities. Region 6, in partnership with the states of Texas and Louisiana, will seek a negotiated settlement with each of the selected facilities, which will ultimately result in the facility achieving a level of performance better than that which would be required by permits and regulations alone.

The multimedia team, in conjunction with EPA and TNRCC inspectors, completed the first of four planned investigations in July 2002. The selected facility, Goodyear Tire and Rubber Co. in Houston, Texas, has received the final executive summary report consisting of the EMR summary and inspection report. A meeting was scheduled for October 9th at which time all parties will begin to discuss options for improving facility environmental performance. Many of the deficiencies, which were identified during the investigation, were attributable to inadequate implementation of the facility's environmental management systems. A second investigation was scheduled for the week of October 21st at BASF Corporation located in Geismar, Louisiana.

In coordination with the Region's GIS staff, the team developed a targeting methodology that allowed it to identify facilities that offered the greatest potential for across-the-board environmental improvements. The targeting model considered fourteen variables, which were ranked in order of importance for each of three primary media (air, RCRA and wastewater). Once the aggregate score was determined, the variability between the individual media scores was considered. This process screened out facilities that were of primary interest to any single medium and gave greater weight to more fully integrated facilities. The team believes that, even in the absence of significant violations, it can convince facilities to voluntarily reduce emissions and implement more comprehensive management systems to ensure long-term benefits.

The Region frequently hears from citizens and citizens' groups that are concerned about the amount of pollutants to which they may be exposed. Often, the facilities about which they are concerned are operating in full compliance with their environmental permits and/or applicable regulations. Using this partnership approach, and stressing the importance of compliance based environmental management systems, we believe that we can negotiate a "win/win" settlement, in which the parties can identify ways to reduce emissions below regulatory benchmarks while holding costs steady or, in the best case scenario, at a savings to the facility.

The pilot is scheduled to continue through mid- to late-FY2003. At the end of the pilot, a decision will be made as to the long-term viability of the concept. With three or four investigation/negotiations completed, we will be better able to determine whether the assumptions were correct, whether the benefits justified the resources allocated and whether the concept has a place in the Region's/Agency's enforcement and compliance assurance toolbox.

State Capacity Building

Assisted Compliance Evaluation Inspections: The Region's Hazardous Waste Enforcement Branch provided inspection, sampling and analytical support to the Oklahoma Department of Environmental Quality and Arkansas Department of Environmental Quality. Inspectors from the Region assisted ODEQ & ADEQ inspectors in conducting Resource Conservation and Recovery Act Compliance Evaluation Inspections at metal service industries and potential permit evaders in Oklahoma City and Camden, Arkansas area. The EPA Inspectors provided contract environmental sampling and laboratory analyses. All violation determinations and enforcement actions are to be taken by the respective state agency.

Public Water Supply

Effective State Oversight: The Region 6 PWS Enforcement Team ensures that the public is provided with the highest quality of drinking water possible through its effective oversight of the states' PWSS enforcement programs. Through mid-year and end-of-year program evaluations, the PWS Enforcement Team evaluates each state on how well it manages its drinking water enforcement program in accordance with the Safe Drinking Water Act (SDWA) and its regulations. In addition, through effective coordination with the Region 6 States, EPA has been able to use the Significant Non-Complier (SNC) list to initiate necessary EPA enforcement actions. This activity can be a considerable undertaking on the part of both entities, EPA and State, but it results in all violators being addressed.

New Mexico Drinking Water Program: EPA Region 6 staff and the New Mexico Environment Department/ Drinking Water Bureau (NMED/DWB) discussed the various elements of the Safe Drinking Water Act with the capacity development strategy. An example is to assist the State with development of their capacity development strategy under Section 1420. NMED/DWB is required to prepare, and periodically update, and submit a list of water systems that have a history of Significant Non-Compliance (SNC). Within 5 years, the State is required to report the success of the enforcement mechanisms and initial capacity development efforts in improving the needed technical, managerial, and financial capacity.

EPA will continue to work with NMED/DWB to examine and monitor Significant Non-Compliance lists, Notices of Violation, Maximum Contaminant Level violations, Sanitary Surveys and Comprehensive Performance Evaluations, Consumer Confidence Report compliance rates, issuance of training certificates to board/council members and operators, Technical Assistance projects, and grants/loans provided to compare results from year to year. EPA and NMED/DWB will initiate development on language of an Administrative Order to require non-compliant and SNC systems to evaluate their technical, managerial, and financial capability; utilize TA assistance; ensure public water systems have a certified operator; and evaluate the possibility of regionalization/consolidation or receivership if management is not receptive to making changes to comply with the national primary drinking water regulations.

Lead-Based Paint

Lead-based Paint (LBP) Program exceeds inspection projection for FY2002: A key element of the interagency Federal Strategy for Eliminating Childhood Lead Poisoning

(Children's Health Initiative) was a budget initiative which distributed extramural funds to the regions to hire Senior Environmental Employment (SEE) inspectors to determine compliance with the lead-based paint rules, with a particular focus on the Real Estate Notification and Disclosure Rule (the 1018 rule). Region 6 was tasked with accomplishing 210 LBP inspections for FY2002. As of September 30, 2002, the four SEE inspectors in Region 6 had conducted 234 inspections. The inspections were conducted throughout the five states and included inspections of real estate companies, apartment complexes, and individual landlords. The inspections were conducted to determine compliance with the LBP rules which govern target housing, housing built prior to 1978. Before the sale or lease of any unit of target housing, all sellers and lessors of target housing, or their agents, are required to comply with the requirements of 40 CFR Part 745, Subpart F. The requirements provide for the disclosure of information regarding the potential health hazards, especially to young children and pregnant women, of lead-based paint which was commonly used in housing built prior to 1978.

CFC Compliance Program

In FY 2002, Region 6 continued its enforcement activities with bakeries regarding CFCs to insure compliance with the Clean Air Act. The Region referred 14 facilities to the Department of Justice as part of two national cases against Earthgrains Baking Company and Interstate Brands Corporation. Also, Region 6 participated in finalizing an agreement with the American Bakery Association (ABA), a trade association representing wholesale bakeries. The voluntary partnership agreement with ABA required each bakery signing the agreement to audit its refrigerant compliance program and to convert industrial process refrigeration equipment using ozone depleting substances to non-ozone depleting or lower ozone depleting refrigerants by a date specified in the agreement. Bakeries typically use large quantities of refrigerants to cool dough used in making bread and other baked goods.

Region 6 also expanded its enforcement activities into commercial refrigeration systems, such as those found at large refrigerated warehouses or grocery stores. The Region plans on continuing this activity into FY 2003.

In addition, Region 6 conducted inspections at two federal facilities, Tinker AFB (Oklahoma) and Sandia National Laboratory (New Mexico) to determine compliance in the federal sector as well.

RCRA Corrective Action

Corrective Action Enforcement at Interim Status Facilities under the Resource Conservation and Recovery Act (RCRA): EPA Region 6 developed and issued 4 corrective action enforcement orders in FY 2002. Under Section 7003 of RCRA, two corrective action orders were issued to address a potential endangerment to the environment by observed seeps of contaminated ground water into the surface water in the ship channel in Corpus Christi, Texas. Consent Orders were issued to El Paso Merchant Energy-Petroleum Company (formerly Coastal Refining and Marketing Company) and Elementis Chromium (formerly American Chrome). It is estimated that there are 250,000 barrels of hydrocarbons in a non aqueous phase liquid as well as

hydrocarbons and chromium contamination in the dissolved phase will be recovered from the ground water.

Region 6 developed and issued one corrective action enforcement order under Section 3008(h) of RCRA in FY 2002. This unilateral order was issued to Oklahoma Energy Corporation and the Cyril Petrochemical Corporation for the Cyril Petrochemical facility in Cyril, Oklahoma. The order addressed contamination of onsite ground water, and characterization and removal of hazardous waste. However, the two respondents did not comply with the order and the facility was subsequently deferred to CERCLA pursuant to the NPL/RCRA deferral policy.

Region 6 developed and issued one corrective action enforcement order under Section 3013 of RCRA in FY 2002. This order was issued to W. J. Smith Wood Preserving Company and Katy Industries for releases of creosote-based wood preservatives from the W. J. Smith facility in Dennison, Texas. The Consent Order by letter agreement contained requirements for W. J. Smith and Katy Industries to monitor, test, and analyze soil, surface water, and ground water for presence of contamination from the facility. Such letter agreements have almost eliminated the transactional costs associated with traditional orders. They are not appropriate for every company, but in the case of W.J. Smith, we were able to quickly respond to new information indicating the need for expanded environmental monitoring.

Pesticides

A second US/Mexico Pesticide Information Exchange for Inspectors took place from October 21 to 27, 2001. Eight pesticide inspectors from Mexico were hosted by U.S. pesticide inspectors in Texas, New Mexico, Arizona, and California. Activities included overviews of state pesticide activities and procedures, as well as the opportunity to observe and take part in inspections in the four U.S. states. The success of the first inspector exchange, which took place in August 2000, prompted a repeat of this successful program. The project was a mutual sharing of information. The purpose was to add to the knowledge, cooperation, and understanding of environmental problems and solutions encountered by both countries.

EPCRA 313

Site Specific Compliance Assistance for the Emergency Planning and Community Right-to-Know Act (EPCRA) Section 313 (toxic chemical emissions reporting): As part of the operating principles for an integrated EPA enforcement and compliance assurance program, the TRI (Toxic Release Inventory) enforcement program initiated a Compliance Assistance Initiative during the 4th quarter, FY2002. Sixteen (16) facilities were selected, 14 in Texas, and 2 in New Mexico, to receive on-site assistance regarding statutory and regulatory requirements under Section 313 of EPCRA. Eight (8) of the facilities, i.e. half those visited, required assistance in better understanding the reporting requirements under Section 313 of EPCRA. After the completion of the assistance, approximately 50 new or revised Form R's were submitted to the EPCRA Reporting Center, resulting in more accurate emissions information from these facilities. One facility, Louisiana Pacific's Cleveland Plywood facility in Cleveland, TX, submitted 24 new Form R's for 6 chemicals from 1997 to 2000.

Oil Pollution Act

Innovative Use of Compliance Assistance With Oil Pollution Act Enforcement Program Produces Marked Improvement in Facility Compliance Rates: The Region 6 Oil Pollution Act (OPA) enforcement program began integrating compliance assistance into its ongoing Spill Prevention Control and Countermeasure (SPCC) inspection and enforcement program several years ago. The Region instituted a program of conducting Compliance Assistance Workshops in each geographic area prior to initiating SPCC inspections of facilities within the area. The workshops are conducted jointly with the States and local trade organizations. The trade organizations typically provide the workshop site and invite all area members and nonmembers to the workshops. In FY2002 the Region conducted twenty (20) workshops attended by over 1900 owners and operators of SPCC regulated facilities. After allowing the facilities an opportunity to bring the facilities into compliance following the workshop, the Region subsequently conducts inspections of the facilities and follows up with administrative penalty enforcement actions using the Headquarters approved Expedited Penalty Process, against the non-complying facilities. The Compliance Assistance Workshops and the Expedited Penalty Process enables the Region to address non-compliance in the oil program with a minimal number of staff resources. The program is designed to provide a high degree of compliance assistance, address the large number of facilities found to be non-compliant, minimize the time and resources necessary to complete the enforcement actions and bring facilities into compliance and, assess lower penalties than would be assessed using the traditional administrative penalty process. The program has produced a 17 percent improvement in compliance rates in the period from FY99/00 to FY01/02.

UST

National Underground Storage Tank (UST) Inspector Workshop: The Environmental Protection Agency (EPA) conducted a UST Inspector Workshop in Dallas on August 14-15, 2002. We had 64 participants (18 from EPA, 40 from States, 2 from local governments and 4 from the Tribes). Regions 2, 4, 6, 7, 8, 9 and 10 were represented at the meeting along with representatives of the States of Arkansas, Louisiana, Texas, New Mexico, Oklahoma, Tennessee and New Jersey. We also had representatives from the Inter-Tribal Environmental Council (made up of Oklahoma Tribes) and the City of Austin, Texas.

The purpose of the Workshop was to have UST inspectors discuss key issues concerning compliance inspections of UST facilities, and to better achieve consistency in inspection procedures and in compliance determination. Since the December 22, 1998 deadline for achieving UST upgrade has past, and most owners/operators have installed the necessary equipment to upgrade their USTs, EPA and the States have now focused in on “operational compliance” of USTs throughout the Nation.

This workshop was a major achievement since many state and Regional UST inspectors had requested a National workshop to exchange experiences in how to conduct a more effective inspection of USTs.

NEPA

This Fiscal Year we received 23 Environmental Information Documents (EID's) for review and preparation of environmental assessments (EA's) under the National Environmental Policy Act (NEPA). Of these 23, 19 have been completed and four EA's are still in process. There were nine Special Appropriations projects; six of these were completed and three are still in process. We completed the environmental assessment on eight Colonias projects in Texas and New Mexico, and completed five assessments for projects in Texas, New Mexico and Mexico which were funded through the Border Environmental Infrastructure Fund (BEIF). One BEIF project in Matamoros, Tamaulipas, Mexico is in process. We processed two CWPPRA projects for assessment, and two EIS actions - the Drachenburg Proposed Campground Supplement EIS and the Fence Lake Coal Mine Project in New Mexico.

Number of Environmental Assessments (EA) and Environmental Impact Statements (EIS)

Reviewed: Application of GISST: Over 80 National Environmental Policy Act (NEPA) documents (including requests for information) were reviewed using the assistance of the GIS Screening Tool (GISST), including the work performed for IH-69 and other large scale or NEPA-related projects. GISST is used in formulating comments on draft and final NEPA documents and used to help agencies get started in collecting data and preparing their draft NEPA documents. It uses GIS coverages and a decision framework in the form of 1 to 5 rankings for a variety of environmental and socioeconomic issues. It aids in the assessment of cumulative impacts and environmental justice. As a result of using the GISST, cumulative impacts have been more adequately assessed. In addition, information produced from GISST is proactive compliance assistance and can help reduce initial contractor costs for other Federal agencies in collecting data and preparing draft NEPA documents and in avoiding "late hits" by EPA during NEPA document review periods. In one case, EPA initiated a \$45000 demonstration project with the

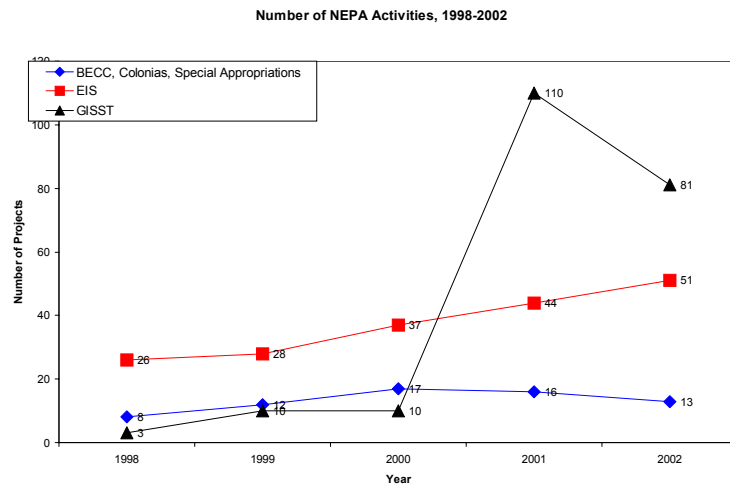
County of Bastrop to help facilitate the NEPA process (EA for permits related to habitat conservation of the Houston Toad) in terms of assessing cumulative impacts in a multi-county area.

Caddo Lake Environmental

Review - EPA's comments on the draft Environmental Assessment led the public utility and the Rural Utilities Service to select an alternative water source for a new utility plant in northeastern Texas.

In response to agency and public comments, a more environmentally

beneficial alternative was selected to provide the water source for the 570 MW power plant proposed by Entergy Power Ventures (EPV) in Harrison County, TX. EPV includes a consortium of public bodies for which the Rural Utilities Service (RUS) is providing financial support. RUS conducted an Environmental Assessment under the National Environmental



Policy Act for the power plant. EPA and others (U.S. Army Corps of Engineers and U.S. Fish and Wildlife Service as well as the public) had voiced major concerns that use of the City of Marshall's water supply for cooling water would reduce the inflow to Caddo Lake with potential adverse environmental impacts on Caddo Lake wetlands. The uniqueness of the Caddo Lake wetlands has been very well documented, and recognized not only regionally but also internationally under the Ramsar Convention. Caddo Lake, the only natural lake in Texas, has a tremendous diversity of plants, fish and wildlife, giving habitat to 216 species of migratory or resident birds, 47 species of mammals, and 90 species of reptiles and amphibians.

Transportation Streamlining Initiative to Expedite Project Delivery: An Interagency Agreement (IAG) was developed, signed and funded (\$100+K) to support EPA assistance to the Federal Highway Administration (FHWA) and the Texas Department of Transportation (TXDOT). EPA is conducting a GIS environmental data inventory and GIS-driven analyses to support the I-69 Environmental Streamlining Process in Texas. This is the first federal IAG being funded by TxDOT and FHWA to support the I-69 project. It is also being hailed by EPA's Office of Federal Activities as a national model for the "integration of GIS into an overall management systems process that seems to have transferability to other parts of the country not only for transportation, but for other sectors as well". Anne Miller, Director, OFA

Participation in development of the Texas I-69 Pilot Project Streamlining Process to help expedite review and improve project delivery for 1000 miles of the NAFTA Corridor. The Process has been tailored from that of the Mid-Atlantic, designed to streamline multiple regulatory processes through early and ongoing participation and consensus of Federal and State resource agencies, Municipal Planning Organizations (MPO's), Native American Tribes, accompanied with aggressive public outreach and involvement.

R4, 5 and 6 (& HQ) collaboration with FHWA and 7 state DOTs to streamline I-69 through development and application of an I-69 NEPA Streamlining Expectations document. The document was issued by EPA nationally to all state and federal transportation and resource agencies and Tribal governments impacted by the I-69 Corridor.

Arkansas Highway and Transportation Department and FHWA - Arkansas Division have agreed to provide significant supplemental travel funding support to the Region 6 NEPA program for participation in the Arkansas I-69 project and related transportation activities.

Interagency Collaboration on Environmental Stewardship, Strategic Planning and Streamlining: Texas Environmental Resource Stewards - Multi-agency partnering effort facilitated by EPA in Texas to align strategic ecological resource priorities with long-term transportation priorities for collaborative regulatory streamlining, environmental stewardship and preservation of sensitive resources throughout the state. Participants include federal and state resource agencies, transportation agencies and the Governor's office.

Ongoing Support/Facilitation for Interagency Working Teams on Transportation and Environment: Nearly 2 Years ago, EPA facilitated the formation of interagency teams by USACE, FHWA, TXDOT, FWS, and EPA to identify and resolve historic problems related generally to mis-communication and limited coordination, and specifically to CWA Section 404 issues in Texas. As a result of that effort, the USACE has reported 2 years later, that historic 404 permitting violations have been significantly reduced and overall accountability has gone up - even while seeing a 30 percent+ increase in transportation project activity.

CASE SUMMARIES

REGION 6

U.S. Department of Justice, EPA, and the states of New Mexico and Montana, have reached agreement on a global settlement for Holly Corporation's Navajo Refineries in Artesia and Lovington, New Mexico and Montana Refining Co.'s Great Falls refinery. A consent decree filed in U.S. District Court in Albuquerque, New Mexico, on December 20, 2001, requiring Navajo and Montana Refining to spend an estimated \$16-\$21 million to install the best available technology emissions-control equipment which will reduce annual emissions of NOx by approximately 250 tons, SO2 by approximately 2350 tons, and VOCs and PM by approximately 100 tons each. In addition, Navajo and Montana Refining will pay a \$750,000 civil penalty under the Clean Air Act and spend about \$1.5 million on additional environmentally-beneficial projects. The states of New Mexico and Montana will share in the cash penalty.

Conoco, Inc. (06-2002-3717/3718): The U. S. Department of Justice, EPA, and the states of Colorado, Montana, Louisiana, and Oklahoma, have reached agreement on a global settlement for Conoco's refineries in Denver, Colorado; Billings, Montana; Lake Charles, Louisiana and Ponca City, Oklahoma. A consent decree filed in U.S. District Court in Houston, Texas calls for Conoco to spend an estimated \$95-\$110 million to install the best available technology emissions-control equipment which will reduce annual emissions of nitrogen oxide (NOx) by approximately 3,210 tons, sulfur dioxide (SO2) by approximately 4,000 tons, volatile organic compounds (VOCs) by approximately 100 tons and particulate matter (PM) by approximately 400 tons. Conoco also will pay a \$1.5 million civil penalty under the Clean Air Act and spend about \$5 million on additional environmental projects in communities around the company's refineries. The states of Louisiana, Montana and Oklahoma will share in the cash penalty.

Shell Chemical Company Explosion, Deer Park, Texas (06-1998-0547): On Sunday, June 22, 1997, a violent explosion and a large fire occurred at Shell Chemical Company, in Deer Park, Texas. The fire burned for approximately 10 hours. As a result of the explosion and fire, extensive damage occurred to the facility and several employees received minor injuries. Major transportation routes adjacent to the facility were closed for several hours, and nearby residents were advised to remain indoors. The cause of the accidental release was determined to be the internal structural failure and shaft blow-out of a drive shaft for the 36 inch diameter pneumatically assisted Clow Model GMZ check valve. The check valve failure caused a large flammable gas leak that resulted in a unconfined vapor cloud explosion. An investigation by EPA, OSHA, and Shell, as to the cause of the explosion revealed that Shell had a pattern of problems with the type of valve that failed and caused the explosion. The valve was an inappropriate design for its use. Shell has removed or modified all valves of the type involved in the accident at all their plants nationwide. EPA and Shell have released informational alerts to industry likely to use Clow GMZ valves concerning the dangers of the wrong application of the valve. EPA has determined that there are violations of Section 112(r)(1) of the 1990 Clean Air Act Amendments (CAA), which imposes a "general duty" on owners and operators of stationary sources to anticipate, prevent, and minimize the effects of accidental releases whenever extremely hazardous substances that are present at their facility. Settlement negotiations resulted in a agreed penalty of \$350,000. Shell has verified that they either decommissioned the existing Clow valves or replaced them with a safer design. They also implemented a number of procedures including a corporate system to track problems with equipment from any plant in the world.

Crown Central Petroleum - Multimedia Enforcement Case (06-1998-0144): Crown Central Petroleum is a petroleum refinery in Pasadena, Harris County, Texas, that had serious problems

with excess emissions of various air pollutants since 1992. The TNRCC issued an NOV in July 1997, for several violations including exceedances of the SO₂ emission and H₂S fuel limits in NSPS Subpart J. On June 4, 1998, TNRCC and Crown Central entered into a proposed Agreed Order resolving its emissions violations for \$677,425 and injunctive relief. The Order resolved the first five violations cited in the state NOV. TNRCC modified the proposed Agreed Order to reflect a higher penalty figure of \$1,055,425. The change in penalty was based upon the inclusion of penalties for days Crown Central exceeded the hydrogen sulfide and sulfur dioxide emission limits while operating in a startup and shutdown mode.

EPA sent a multimedia referral package with numerous air violations (including the same ones settled in the TNRCC Agreed Order) as well as several RCRA/EPCRA violations to the Department of Justice in February 1998. Crown eventually settled with EPA for penalties and injunctive relief; the consent decree was filed in January 2002 in district court. Crown was required by the state to have studies conducted by three independent consultants to review and recommend changes to the refinery process to ensure that excess emissions of SO₂ would be minimized. These changes have now been implemented. Crown was also required by EPA to conduct certain testing and monitor certification and to ensure that tank seals were properly maintained.

City of Baton Rouge and East Baton Rouge Parish, LA (06-1998-0993): Consent Decree Between United States and State of Louisiana and the City/Parish to Resolve Sanitary Sewer Overflows (SSOs): On March 15, 2002, a Consent Decree was executed between the United States and the State of Louisiana with the City of Baton Rouge and East Baton Rouge Parish (City/Parish), LA. The goal is to end years of sewage overflows and long-standing discharges of untreated sewage to public areas and U.S. waters. This was a violation of the NPDES permit under Section 309 of the Clean Water Act. The remedial measures in this Civil Referral include capital improvements for sewer rehabilitation, increase capacity of the system to address Sanitary Sewer Overflows (SSOs), and operations and maintenance. The comprehensive improvement plan which will take between 13 and 15 years to carry out and is expected to cost between \$330 and \$461 million. The settlement is intended to reduce untreated sewage to public areas and U.S. waters by more than 1.2 billion gallons annually.

Since the execution of the consent decree the City/Parish has paid stipulated penalties of \$216,000 and civil penalties of \$945,500, and met the June 30, 2002, deadline for electronic tracking of pump station preventive maintenance. This settlement demonstrates the EPA and the State of Louisiana commitment to enforcing laws that require the City/Parish to take steps necessary to prevent the public from being exposed to discharges of raw sewage. The most serious problem is that pipes transporting sewage to the treatment plant are antiquated, allowing significant inflows and overflows of untreated and partially treated wastewater to waters of the United States. The discharges of raw sewage contain a variety of pollutants including organic and chemical materials that present a high risk to human health and the environment. Under the Consent Decree, the City/Parish may be liable for stipulated penalties for Non-Compliant discharges and any Unauthorized Discharge which results in the release of more than one million (1,000,000) gallons or more during its entire duration. The stipulated penalties are payable with one half payable to the United States and one half payable to the Louisiana Department of Environmental Quality.

Shop Rite, Inc. (06-2001-0181): On January 25, 2002, the U.S. Environmental Protection Agency (EPA) and Shop Rite, Inc. settled a case involving 75 alleged violations of the federal and state underground storage tank (UST) regulations for \$175,000. Underground storage tank regulations are designed to protect underground drinking water sources from contamination and protect public safety from dangers such as fire or explosions. The alleged violations involved 27 underground storage tanks owned and/or operated by Shop Rite, Inc., at 10 different facilities in Louisiana. The facilities were jointly inspected by EPA and the Louisiana Department of Environmental Quality in May and June of 1999. No releases were found during the inspections.

The Shop Rite settlement is an important part of EPA's ongoing major initiative to improve UST compliance by ensuring that owners and operators of underground storage tanks not only install the required corrosion, release detection and spill/overfill prevention equipment, but also continually operate and maintain the equipment in accordance with the regulations.

Central Oil and Supply, Inc. (06-2002-0002): The U.S. Environmental Protection Agency (EPA) and Central Oil and Supply Corporation, 2300 Booth Street, Monroe, Louisiana, agreed to settle a case involving 43 alleged violations of the federal and state underground storage tank (UST) regulations for \$150,000. The violations were found during compliance inspections conducted jointly with EPA and the Louisiana Department of Environmental Quality (LDEQ) on June 15, 2000. Nineteen USTs at six facilities were inspected.. The violations involved failure to provide adequate leak detection for the tanks and piping, failure to provide corrosion protection for metal components of the piping, failure to install adequate overfill protection and failure to test the corrosion protection systems adequately. Federal and state UST regulations require specific equipment and methods to be in place on tanks and piping to prevent leaks, spills and overfills from occurring, and if they should occur, they are quickly detected and cleaned up. The Central Oil and Supply settlement is an important part of EPA's ongoing initiative to improve UST compliance by ensuring that owners and operators of underground storage tanks not only install the required corrosion, release detection and spill/overfill prevention equipment, but also continually operate and maintain the equipment in accordance with the regulations.

Pennzoil-Quaker State Company, Houston, TX (0602001-0901): A Consent Agreement and Final Order (CAFO) was filed on April 30, 2002, settling an administrative Complaint against Pennzoil-Quaker State Company (PQS). The Complaint alleged violations of the Resource Conservation and Recovery Act (RCRA) at Specialty Environmental Services, located in Shreveport, Louisiana, which was owned by PQS at the time the alleged violations occurred. The penalty assessed in the complaint was \$660,678. Respondent agreed to pay \$134,418 of the penalty and conduct a Supplemental Environmental Project costing no less than \$100,000 to settle the case.

The SEP provided for the removal and disposal of a storage tank and associated materials located on property that will eventually be developed into a 300,000 square foot convention center complex. The tank was approximately 30 feet by 40 feet in size and contained about 50,000 gallons of oil and water and 8,000 gallons of sludge contaminated with gasoline, diesel, other petroleum hydrocarbons, pesticides, PCBs, and various metals. Approximately 50 cubic yards of contaminated soil were also removed and disposed along with the disposal of the tank

after it was removed and cleaned. The SEP was performed in an area with significant Environmental Justice concerns and assisted in the clean up of a Brownfields site. This was the first Brownfields SEP in Region 6 and serves as the groundwork for the convention center. The property is located in downtown Shreveport and includes Census Tract 204. The property has been part of an industrialized area since the 1850's. From 1885 to 1946, a portion of the property was utilized by Shreveport Gas, Electric Light and Power Company (including the tank removed under this SEP). Heavy industrial activity has resulted in significant environmental concerns. The median family income for persons residing in Census Tract 204 in 1990 was \$4,999 while the median family income for the City of Shreveport was \$26,894. According to the 2000 Census, the African American population comprises 96 percent of the population of this area. The new convention center is expected to create and sustain over 1,100 jobs for the community.



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**L.L.C. Houston,
Agricultural
s Initiative (06-2002-**

0950): On September 27, 2002, U.S. Environmental Protection Agency Region 6 (EPA) filed a Consent Agreement and Final Order (CAFO) against Griffin L.L.C. (Respondent) pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (RCRA). Respondent operates a manufacturing plant of copper-based agricultural fungicides and related chemicals. The alleged violations involved: failed to make a hazardous waste determination; stored/disposed of hazardous waste in the east surface impoundment (see photos below #1 & 2) without a permit; failed to operate the surface impoundment meeting the minimum technological requirements; failed to meet the land disposal restrictions for hazardous waste, and; failed to store used oil in containers meeting the standards.

EPA assessed the penalty for the CAFO to be \$62,979.00, and Respondent will spend over a million dollars (\$1,000,000) in closing the east surface impoundment (photos #1 & 2). As part of closing this surface impoundment, it is estimated that Respondent will remove over 100,000 pounds of sludge contaminated with hazardous waste toxic for lead. Additionally, Respondent will be required to determine if the waste accumulated in the East/east surface impoundment (see photo #3) is a hazardous waste, in which case will be required to also clean close this impoundment. Each surface impoundment can hold approximately over a million gallons of material. Clean closing of the surface impoundment(s) will be completed following the Texas Risk Reduction Program (TRRP) Rules. Upon Respondent's clean closing of the impoundment(s) and compliance with the CAFO EPA administratively concludes the allegations against Respondent for the above cited violations of RCRA.

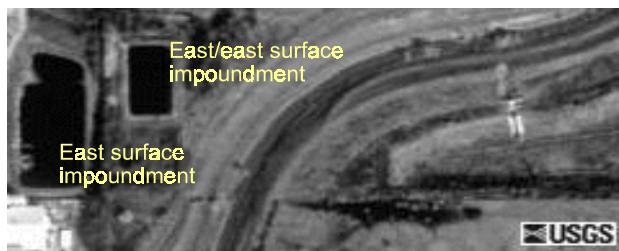


Photo 1: Aerial photo of the impoundments at the facility, by USGS (<http://terraserver.homeadvisor.msn.com/>)



Photo 2: East surface impoundment, by Gerardo Acosta



Photo 3: East/east surface impoundment

Centrifugal Castings, Temple, TX (06-2001-0504):

Centrifugal Castings agreed to pay a cash settlement of \$25,000, and conduct a SEP (Supplemental Environmental Project) for \$75,000 for violations of Section 313 of EPCRA (Emergency Planning and Community Right-to-Know Act - toxic chemical emissions reporting). Recognizing the importance of emergency preparedness and planning, Centrifugal Castings proposed to provide the Temple Fire Department with advanced Haz-Mat training, and new equipment in the amount of \$75,000. A Consent Agreement reflecting those terms and conditions was issued to Centrifugal Castings on July 3, 2002.

Voluntary Purchasing Groups, Inc. (06-2001-0344): On May 28, 2002, a Consent Agreement and Final Order was filed achieving compliance between EPA and Voluntary Purchasing Groups, Inc. (VPG), of Bonham, Texas. EPA charged VPG for violating the Federal Insecticide, Fungicide, and Rodenticide Act on six counts of selling adulterated and misbranded pesticides. An Administrative Penalty Order was filed with a paid penalty of \$20,020. The pesticidal products were formulated improperly and were also mislabeled. As such, VPG misrepresented the products to the public. VPG agreed to discontinue the sale of several of its pesticides, properly sell other products, and utilize better technology to ensure that products are properly labeled in the future.

Wireless Facilities, Inc. (06-2001-2709): On December 20, 2001, Region 6 collected a \$5,000 Class I Administrative Penalty under Clean Water Act, Section 309(g) for discharges of fill material into two wetland sites without the required Clean Water Act, Section 404 permit. The

violations occurred in St. Tammany and St. Charles Parishes, Louisiana, and involved construction of two cellular communications towers in approximately 1.3 acres of wetlands. In addition to the penalty, the company was required to obtain an after-the-fact permit for the wetlands impacts, to include appropriate mitigation.

Searcy Municipal Airport (06-2002-2705): On February 26, 2002, Region 6 collected a \$5,000 Class I Administrative Penalty under Clean Water Act, Section 309(g) for discharges of fill material into forested wetlands without the required Clean Water Act, Section 404 permit. The violation occurred in Searcy, Arkansas, and involved construction of a runway extension for the Searcy Municipal Airport. Approximately 2 acres of forested wetlands were cleared and leveled by the project. In addition to the penalty, the city was required to obtain an after-the-fact permit for the wetlands impacts, to include appropriate mitigation.

Glenn Lynch Companies, Inc. (06-2002-2710): On August 04, 2002, Region 6 collected a \$5,500 Class I Administrative Penalty under Clean Water Act, Section 309(g) for discharges of fill material into Longbranch Creek without the required Clean Water Act, Section 404 permit. The violation occurred in Mesquite, Texas, and involved construction of channel modifications as part of an apartment complex construction project. In addition to the penalty, the company was required to obtain an after-the-fact permit for the wetlands impacts, to include appropriate mitigation, and the provide an addition \$5,500 worth of onsite habitat improvements, above and beyond the permit required mitigation.

Brushy Lake Hunting Club (06-2002-2718): On September 17, 2002, Region 6 collected a \$4,000 Class I Administrative Penalty under Clean Water Act, Section 309(g) for discharges of fill material into Brushy Creek and adjacent wetlands without the required Clean Water Act, Section 404 permit. The violation occurred in Cross County, Arkansas, and involved construction of a levee and extensions to that levee, as part of a waterfowl management project. In addition to the penalty, the hunting club is required to obtain an amendment to their existing permit if any future levee restoration/maintenance is to be performed beyond the scope of the original permit.